

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

■ VIDEO GAMING

The ILLINOIS GAMING BOARD proposed an amendment to Video Gaming (General) (11 IAC 1800; 45 Ill Reg 14277) concerning redemption of gaming tickets and vouchers during general or localized coin shortages. This rulemaking will, upon adoption, replace an emergency rule that was effective 7/26/21 for a maximum of 150 days. The rulemaking allows video gaming terminal operators to request permission from the IGB Administrator to redeem gaming tickets and vouchers by mail during a coin shortage (defined as inability of a terminal operator to maintain enough currency in its gaming machines to meet the expected redemption demand for tickets and vouchers over a 7-day period). Factors that the Administrator will consider in deciding whether to grant permission include: the existence

COVID-19 ACTIONS

Executive Orders of the Governor concerning the COVID-19 public health emergency can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

[Emergency Rules, Page 3](#)

[JCAR Meeting Action, Page 6](#)

of a coin shortage in market areas served by the terminal operator; the number of redemption terminals and available coin suppliers; frequency of coin filling and redemptions; and whether or not a terminal operator's market is of sufficient size that a deficiency of coins in one area could be

(cont. page 3)

Adopted Rules

■ SALES TAX

The DEPARTMENT OF REVENUE adopted an amendment to Retailers' Occupation Tax (86 IAC 130; 45 Ill Reg 4402) effective 11/5/21, implementing PA 101-629, which retroactively reinstated a sales tax exemption for materials, parts, equipment, and other items purchased for aircraft construction, repair or maintenance. The PA and this rulemaking retroactively authorize the exemption from 12/31/14 (the original sunset date of the exemption) through 12/31/24. However, no credit or refund may be made for taxes paid from 1/1/15 through the effective date of the PA (2/5/20). Those affected by this rulemaking include individuals or businesses that own or operate aircraft.

(cont. page 2)

ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.
QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Adopted Rules

(cont. from page 1)

■ DOR HEARINGS

DOR adopted an amendment to Administrative Hearings (86 IAC 200; 45 Ill Reg 7970) effective 11/2/21, reflecting Public Act 97-1129. The rulemaking clarifies that DOR has authority to grant late discretionary hearings for Notices of Deficiency issued under the Income Tax Act in the same manner as for Notices of Tax Liability issued under the Retailers' Occupation Tax Act. Those affected by this rulemaking include small businesses.

■ TELECOMMUNICATIONS TAX

DOR also adopted amendments to Telecommunications Excise Tax (86 IAC 495; 45 Ill Reg 4426) effective 11/5/21, that add provisions for registration of telecommunications retailers subject to the tax and for revocation of this registration. Registration certificates are valid for 1 year and will be automatically renewed annually unless the retailer, or any person named as an owner, officer, manager, or other official of that retailer on its registration application, is delinquent in paying any State or local taxes. DOR must give 60 days' notice to any retailer whose registration is not being automatically renewed; this notice must include the amount and type of delinquent tax owed. The retailer has 20 days after receiving the notice to file an appeal and request a hearing, otherwise the DOR decision becomes final. Registration may be renewed if

the retailer works out a payment plan with DOR for the delinquent tax. A retailer's current registration may be revoked for any violation of this Part. DOR must conduct a hearing before revoking a registration; the retailer must receive notice of the alleged violation at least 90 days before revocation and at least 7 days before the scheduled hearing. Those affected by this rulemaking include businesses that sell or provide telecommunication services directly to clients (e.g., paging services, fax transmission/party line services) or to guests (e.g., hotels).

Questions/requests for copies/ comments on the 3 DOR rulemakings through 5/24/21: Parts 130 and 495, Alexis K. Overstreet (217/782-2844); Part 200, Terry Charlton (217/782-6995); DOR, 101 W. Jefferson St., Springfield IL 62794.

CASINOS

The ILLINOIS GAMING BOARD adopted amendments to Riverboat and Casino Gambling (86 IAC 3000; 45 Ill Reg 6565) effective 11/2/21, establishing a confidential online reporting form at the IGB website for the public to report prohibited conduct by gaming licensees. The rulemaking also requires annual fees for renewal of occupational licenses to be paid before the license is renewed and sets the due date for these fees as the last day of the month prior to the month in which the license was issued. Since 1st Notice, IGB has clarified that the

identities of individuals who submit reports of prohibited conduct or provide information, materials, or data to the Board under this Part will be kept confidential and will not be disclosed by IGB unless required by law or necessary to a Board or law enforcement investigation. IGB has also clarified that information, materials or data received by a Board employee or agent under this Part are exempt from disclosure under the Freedom of Information Act.

Questions/requests for copies: Agostino Lorenzini, IGB, 160 N. LaSalle St., Chicago IL 60601, IGB.RuleComments@igb.illinois.gov

■ SOS PROCUREMENT

The SECRETARY OF STATE adopted an amendment to Secretary of State Standard Procurement (44 IAC 2000; 45 Ill Reg 9385) effective 11/4/21, raising the small purchase threshold below which competitive bidding is not required from \$80,000 to \$100,000 for construction projects, supplies, and services other than professional or artistic services. Businesses seeking contracts with SOS may be affected.

Questions/requests for copies: Pamela Wright, SOS, 298 Howlett Building, Springfield IL 62756, pwright@ilsos.gov.

(cont. page 4)

Proposed Rulemakings

(cont. from page 1)

remedied from a surplus in another area. The terminal operator must also, before redeeming any tickets/vouchers by mail, program its devices to either return unredeemable tickets in their full amount or redeem as much of the value as possible and print a ticket/voucher for the remaining amount. If a patron cannot receive full payment for a ticket/voucher at a terminal, the patron may present the ticket to the licensed location (which will retain it until it can be provided to the terminal operator) or mail it directly to the terminal operator, in which case the terminal operator must issue payment within 15 days and reimburse the patron for the cost of mailing the ticket/voucher. Video gaming licensees and terminal operators are affected by this rulemaking.

CASINO LICENSES

IGB also proposed amendments to Riverboat and Casino Gambling (86 IAC 3000; 45 Ill Reg 14290) concerning relocation of casino licensees from temporary to permanent locations or from riverboat to land-based locations. When applying to IGB for permission to relocate, a licensee must include an address and description of the new site, along with clear, legible and drawn to scale diagrams of the interior; plans for the surveillance and security systems at the new site; and any other information the Board deems necessary. In determining whether to allow a

■ ORTHOTISTS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted emergency amendments to the Part titled Orthotics, Prosthetics and Pedorthics Act (68 IAC 1325; 45 Ill Reg 14508) effective 11/1/21 for a maximum of 150 days. Identical proposed amendments appear in this week's *Illinois Register* at 45 Ill Reg 14275. The emergency and proposed rules allow orthotists, prosthetists and pedorthists (persons who specialize in assessing patients for and fitting devices such as braces, corrective footwear or prosthetic limbs) to complete all current continuing education requirements for license renewal online (formerly, online CE was limited to 15 hours per renewal period).

licensee to relocate, the IGB Administrator must consider the locations enumerated in the Illinois Gambling Act; the potential impact on the security and integrity of gaming; the appearance and character of the facility; impact on the health and safety of patrons or employees; logistics of the gaming operation; and any other factors the Administrator or Board deems relevant. Before gaming may begin at a new location, the Administrator must conduct an assessment of the location that includes a review of facility capacity, security operations,

Emergency Rules

Questions/requests for copies/ comments on the proposed rulemaking through 1/3/22: Craig Cellini, DFPR, 320 West Washington, 2nd Floor, Springfield IL 62786, 217/785-0813, Fax: 217/557-4451.

HOSPITALS

The DEPARTMENT OF PUBLIC HEALTH adopted emergency amendments to Hospital Licensing Requirements (77 IAC 250; 45 Ill Reg 14519) effective 11/4/21 for a maximum of 150 days. This emergency rule (which replaces an emergency rule that expired 11/3/21) implements a federal waiver allowing qualifying hospitals, with approval from the federal Centers for Medicare and Medicaid Services, to provide

(cont. page 4)

staffing, handicapped access, support facilities, use of gaming equipment, and other listed factors. If the assessment determines that the facility meets IGB standards, the Administrator may authorize a final practice session. Gaming may continue at the licensee's current site until the Administrator determines that the final practice session at the new site is successful, after which gaming may begin at the new location.

(cont. page 5)

Emergency Rules

(cont. from page 3)

limited inpatient services in patients' homes to alleviate hospital overcrowding and prevent spread of COVID-19 infection. DPH's emergency rule requires Illinois hospitals that receive the Acute Hospital Care at Home (AHCH) waiver to provide DPH with specified documents, comply with various hospital health and safety requirements, and comply with all COVID-19 directives and guidance issued by the Centers for Disease Control and Prevention, DPH, other State agencies, and local health departments. Hospitals that have applied for or

received the federal AHCH waiver are affected by this emergency rule.

■ COVID-19 TESTING

DPH also adopted emergency amendments to emergency rules on the following Parts: Assisted Living and Shared Housing Establishment Code (77 IAC 295; 45 Ill Reg 14532), Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 45 Ill Reg 14550), Sheltered Care Facilities Code (77 IAC 330; 45 Ill Reg 14569), Illinois Veterans' Homes Code (77 IAC 340; 45 Ill Reg 14597), Intermediate Care for the Developmentally Disabled Facilities Code (77 IAC 350; 45 Ill Reg 14616), Community Living Facilities Code (77 IAC 370; 45 Ill Reg 14647), Specialized Mental Health Rehabilitation Facilities Code (77 IAC 380; 45 Ill Reg 14665) and Medically Complex for the Developmentally Disabled

Facilities Code (77 IAC 390; 45 Ill Reg 14688). The Part 380 and 390 amendments were effective 11/4/21 and the amendments to Parts 295, 300, 330, 340, 350, and 370 were effective 11/5/21. All these amendments modify emergency rules that were effective 9/15 or 9/17/21 for the remainder of their 150-day terms. These emergency amendments update incorporations by reference of federal guidance documents regarding COVID-19 infection control in long term care facilities. They also clarify requirements for testing staff who are not vaccinated and testing residents and staff when a COVID-19 case occurs in a facility. Long term care facilities are affected.

Questions/requests for copies/ comments on the 9 DPH emergency rules: Tracey Trigillo, DPH, 524 S. Second St., 6th Fl., Springfield IL 62701, 217/782-1159, dph.rules@illinois.gov

Adopted Rules

(cont. from page 2)

CMS REPEALER

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES repealed the Part titled Electronic Commerce Security Act (14 IAC 105; 45 Ill Reg 10172) effective 11/3/21 because the underlying statute has been repealed by Public Act 102-38. The Part was adopted in 2007 to establish procedures through which State agencies and contractors could implement digital signature technology. (The PA established new procedures that conflicted with the content of the repealed rule.)

Questions/requests for copies: Administrative Rules Coordinator, CMS, 720 Stratton Building, Springfield IL 62706, 217/524-7518.

Proposed Rulemakings

(cont. from page 3)

Questions/requests for copies/ comments on the 2 IGB rulemakings through 1/3/22: Agostino Lorenzini, IGB, 160 N. LaSalle St., Chicago IL 60601, IGB.RuleComments@igb.illinois.gov

MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to Medical Assistance Programs (89 IAC 120; 45 Ill Reg 14303)

implementing Public Act 102-74. The rulemaking requires review of medical assistance eligibility with spenddown (i.e., when an applicant whose income would otherwise be too high to qualify for medical assistance meets the income threshold after deducting allowable medical expenses) to begin in the 7th month (currently, 6th month) of the 12-month enrollment period. It also requires enrollment to be terminated in most cases if the individual did not meet medical

(cont. page 5)

Proposed Rulemakings

(cont. from page 4)

eligibility requirements in at least one of the 6 months (currently, 3 months) prior to the review.

Questions/requests for copies/ comments through 1/3/22: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, HFS.Rules@illinois.gov

■ COMMERCIAL DRIVERS

The SECRETARY OF STATE proposed amendments to Issuance of Licenses (92 IAC 1030; 45 Ill Reg 14329) implementing Federal Motor Carrier Administration regulations that require all entry level commercial drivers to complete entry level driver training (theory and behind-the-wheel) prior to the issuance of a commercial driver's license (CDL). The rulemaking includes the federal definition of entry level driver training and requires entry level driver training before taking the skills test for a first-time Class A or B CDL; before the skills test to upgrade to a Class A or B CDL; or before taking the skills test for a first-time passenger or school bus endorsement or the knowledge test for a first-time hazardous materials endorsement. However, applicants for a seasonally restricted CDL (e.g., employees of farm-related businesses) are not required to complete entry level driver training. The rulemaking also allows a hazardous materials endorsement CDL holder to submit their Transportation

Worker Identity Card via email instead of an in-person visit to a SOS facility. Those affected by this rulemaking include CDL applicants, holders, and their employers.

DRIVER EDUCATION

SOS proposed an amendment to Online Only Adult Driver Education Course Provider Certification (92 IAC 1066; 45 Ill Reg 14405) implementing PA 102-455, which requires all driver education courses to include information on how to appropriately interact with law enforcement during a traffic stop. The amendment adds this requirement to online-only adult driver education courses (it has already been added to in-person driver education courses).

Questions/requests for copies/ comments on the 2 SOS rulemakings through 1/3/22: Pamela Wright, SOS, 298 Howlett Building, Springfield, IL 62756, pwright@ilsos.gov

■ LIBRARY GRANTS

SOS also proposed amendments to Illinois State Library Grant Programs (23 IAC 3035; 45 Ill Reg 14410) updating incorporations of various standards to be met by grant applicants and awardees. The rulemaking defines equipment as computers or similar technology intended to support instructional materials and not used in the administration of a literacy program, and stipulates that no more than 10% of total literacy grant funds may be used

to purchase equipment. With regard to the Live and Learn grant program, the rulemaking references conflict of interest provisions from the Illinois Procurement Code and requires applicants to certify that neither they nor their employees have any real or apparent conflicts of interest. Library districts and municipalities may be affected by this rulemaking.

Questions/requests for copies/ comments through 1/3/22: Joseph Natale, Illinois State Library, Gwendolyn Brooks Building, Springfield IL 62701-1796, 217/558-1745, jnatale@ilsos.gov

■ PHLEBOTOMISTS

The DEPARTMENT OF PUBLIC HEALTH proposed a new Part titled Resources (77 IAC 150; 45 Ill Reg 14323) implementing PA 101-0542, which requires phlebotomists to be trained in current methods of drawing blood from children and from adults with developmental disabilities. This new Part defines laboratories, health care providers and phlebotomists; cross references various State statutes and accrediting bodies; and requires DPH to provide training materials to affected labs and health care providers.

Questions/requests for copies/ comments through 1/3/22: Tracey Trigillo, DPH, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, 217/782-1159, dph.rules@illinois.gov

JCAR Meeting Action

At its 11/16/21 meeting, the Joint Committee on Administrative Rules took the following actions:

OBJECTION

JCAR objects to the Illinois Housing Development Authority emergency rule titled Homeowner Assistance Fund Programs (47 IAC 302; 45 Ill Reg 13447) because these rules do not meet the emergency rule criteria set forth in 1 Ill Adm Code 230.400 (a)(2)(A) and (B). This emergency rule fails to include policies regarding program eligibility requirements, eligibility determination, and timelines for application corrections, all of which affect the private rights of persons outside the agency. Sec. 1-70 of the Illinois Administrative Procedure Act defines a rule as each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy affecting private rights or procedures available to persons or entities outside the agency, and for all rules of agencies to be adopted in accordance with Article 5 of the IAPA. The rule also permits information that is critical to program applicants to be placed on the Authority's website instead of in rule, and the recapture of program funds for failure to meet any program document obligations. Items placed on the Authority's website and obligations within program documents could be changed by the Authority at any time without notice, which raises significant due process concerns for applicants and program participants.

RECOMMENDATIONS

With respect to the Department of Human Services rulemaking titled Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 45 Ill Reg 6881), JCAR recommends that DHS be more timely in implementing statute in rule. Public Act 101-110, which this rulemaking implements, was effective on 7/19/19 and required the program to be operational by 1/1/20.

With respect to the Department of Human Services emergency rulemaking titled Child Care (89 IAC 50; 45 Ill Reg 13098) JCAR recommends that DHS add cross-references to the Grant Accountability and

Transparency Act [30 ILCS 708], the Grant Funds Recovery Act [30 ILCS 705] and the federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200) to the companion proposed rulemaking so that recipients of these grant funds and the public know what statutes and rules will apply in the event that a grant recipient fails to comply with the terms of these grants.

With respect to the Department of Human Services' peremptory rule titled Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 45 Ill Reg 13125) JCAR recommends that DHS take more care to follow the procedure for peremptory rulemaking outlined in Sec. 5-50 of the Illinois Administrative Procedure Act. The IAPA requires peremptory rules to be filed with the Secretary of State within 30 days after the rule change is required. DHS filed this peremptory rule implementing federal Fiscal Year 2022 SNAP income thresholds and allowances on September 30, 2021, one day before the October 1 effective date established in federal SNAP rules.

EXTENSION

JCAR and the Department of Human Services agreed to extend the Second Notice period for the rulemaking titled WIC Vendor Management Code (77 IAC 672; 45 Ill Reg 9702) an additional 45 days. This rulemaking will be considered again at the December 14 JCAR meeting.

POSTPONEMENT

JCAR postponed action on the Illinois State Police rulemakings titled Firearm Owner's Identification Card Act (20 IAC 1230; 45 Ill Reg 10938) and Firearm Concealed Carry Act Procedures (20 IAC 1231; 45 Ill Reg 10961) until the December 14 meeting, which falls within the current 45-day Second Notice period for these rulemakings.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be listed in next week's *Illinois Register* and considered at the December 14, 2021 meeting to be held in Chicago. Other items not published in the *Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF HEALTHCARE & FAMILY SERVICES

Medical Payment (89 IAC 140; 45 Ill Reg 11458) proposed 9/17/21

DEPT OF PUBLIC HEALTH

Health and Hazardous Substances Registry Code (77 IAC 840; 45 Ill Reg 10733) proposed 8/27/21

STATE UNIVERSITIES RETIREMENT SYSTEM

Universities Retirement (80 IAC 1600; 45 Ill Reg 8638) proposed 7/16/21

Joint Committee on Administrative Rules

Senator Bill Cunningham, <i>co-chair</i>	Representative Tom Demmer
Senator John F. Curran	Representative Michael Halpin
Senator Donald DeWitte	Representative Frances Ann Hurley
Senator Kimberly Lightford	Representative Steven Reick
Senator Tony Muñoz	Representative Curtis Tarver, II
Senator Sue Rezin	Representative Keith Wheeler, <i>co-chair</i>

Kim Schultz
Executive Director